App. F. IX-4.

1926.

File No. 8 - 26

Previous references. (Courts)

Pris 37-24 (1-4)

Serial Nos. 1 - 4

Later references.

Pris 14-31/161-3.

PRESERVED

Present

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. four

Part B for September 1926.

SUBJECT.

case for orders under section 471 Cr. P.C. regarding one Mallesa accused under section 302 IPC in Sessions case no 7 of 25-26 on the file of the Sessions Judge, Srikakulam Division.

GO No P 1521-39/28-9-26. Govt Regr Clerk Guntur
.. Govt Clerk Srikakulam
directs that the prisoner .. Sessions Judge Srikakulam
be handed over to his father and to his 3 brothers
on certain conditions.

Manasuccaq Guyar
1/10/26

G. R. S. III—1] 1926-27

GENERAL AND REVENUE SECRETARIAT.

Confs

NOTES.

File No. 1/6

FILE HEADING.

orders under section 471 Criminal Procedure code

From

The Dt and Sessions Judge Thiruvarur

No. 42/12 Dated 3-7-26 Received 5-7-26

Diary No. 46	Enclos. 1	Spare Copies.	Serial No. 1

BRIEF ABSTRACT OF LETTER.

Forwards a copy of judgment in Mutalang sessions case no 7 of 25-26 and requests orders of Govt regarding the accused Mallesa who has been committed under section 302 I.P.C and who is detained in the Dt Lockup at Mutalang

NOTES AND ORDERS.

The accused has been acquitted as the Sessions Judge has found that he was not capable of knowing the nature of the act at the time it was committed as he was mad. Case with draft

6/7/26.

2 Please find enclosed a copy of the Code of Cr. Procedure. There are some precedents & may be perused. Case.

7-7

NOTES—First Sheet.

WD 1881—GPB—30,000—1-8-21.

Serial No

Sent with a copy of Vol III of the Mysore code containing the Criminal Procedure code. Cross refs 37.24 Rs 1 to 2 and 37.24-82 Rs 1 to 4 are put up Nos K & Q for precedent

Reserve Roll 24-23 Cross 3409 2.9.26 107

By 10/7/26 Appx 107

3) The case has been sent up under Sec 471 of the Code of Criminal Procedure, for the orders of Govt. The accused killed a man, and the Sessions Judge has held that at the time the accused committed the Act, he was insane. So far the procedure is all right & the reference to Govt is also correct. There is however, a direction in the Judgment (vide last para but one) that the accused will abide by the orders of the Special Magistrate, under the Lunacy Regulation. This portion was perhaps not necessary (now called for) to be inserted in the Judgment. There will be no need for a reference to Govt then & there is a possibility that the Special Magistrate may issue a particular & the Govt a contrary order.

4 When such cases are sent up, the usual orders issued are for confining the persons in the Lunatic Asylum. The present case is somewhat different. The accused is not insane now; it is only occasionally that he gets fits of madness. To send such a man — particularly during his

Lent with Copy of Govt Order 2.9.26 (Regd) Cross file 24-23 is not available

10/7/26

NOTE.—Contn. Sheet

Serial No

same period to the Lunatic Asylum is perhaps not warranted. The better course would be to act under Sec 475 Cr. Pro. Code & hand him over to his relatives & friends after taking security. If this view is approved the magistrate will be addressed & if the other view, the usual orders to confine the accused in the Asylum will be issued. The Special magistrate need not deal with the case, as the question is before for orders.

24.7 cwj

5) The course suggested at (4) is the proper one under the circumstances of the case.

1st issue 6) Does Brau is dangerous to be at large by reason of insanity.

7) Magistrate might be asked whether his relations executed adequate security for taking care of him & for preventing his doing injury to himself or others & if not, to send him to Lun. Asylum

848/23/7

24.7 cwj 24.7

8) Send with adapt- Issue

27/7/26 cwj 27.7

NOTE—Contn. Sheet.

Serial No.

2 To the Magte Chittagong.
Roc 474 D 28.7.26.
Request to ascertain and intimate whether his relatives would stand security for taking adequate care of him during his fits of insanity in case he is delivered over to their care and custody

Leo A 31/7

3 From
The D.M. Chittagong.
Letter no Cj no 6 A D 15.9.26
States that the father and 3 brothers of the lunatic Mallica have agreed themselves to stand security for taking adequate care of him if he is delivered to their custody
Forwd with a draft for orders

10) 17/9/26 for 17/9 (1) For consideration whether a Condition that the prisoner shall be produced for inspection before the Civil Medical Officer once in three or six months, may also be prescribed according to Sec 475(2) is fa Consideration
DL Secy
Chief.
(2) Yes—three months Draft for Consd in
Cag 18/9
DL 23/9
cag 24/9

3312/25

13) The necessary addition has been made to the draft. Submd for approval
DL 23/9

3458/25/9

NOTE—Contn. Sheet

Draft approved
DL 24/9
Secy
Chief
cag 24/9
cag -23/9

WD 01229—GPB—37,500—1-9-26
App. F. III—2]

General and Revenue Secretariat

No. 8 File No. 8 of 1926

Serial No.	
4	To the Registr Chief Court West Mapla Chitradurg West & Sessions Judge, Shimoga ROP 1521-3 D 28-9-26 Directs that the prisoner ~~Mapla~~ be handed over to his father & his 3 brothers on certain Conditions & security

B/3099

46 pgs

00456

Office of the Sessions Judge, Shimoga Division, Shimoga, dated 3rd July 1926.

Cp 8.26-1

From:-

G. Sathyaji Rao Esquire B.A., B.L.,

Sessions Judge, Shimoga Division,

SHIMOGA.

To

B. Nagappa, Esquire Barrister-at- Law.

Secretary to Government,

Local & Legislative Departments,

BANGALORE.

Dated

Despd. 23/7/26

No. 42/12 Encl: 1 Copy - & one record Separately

Sir,

In forwarding herewith copy of Judgment in Chitaldrug Sessions Case No.7 of 1925-26 together with the entire records, I have the honor to report for the orders of Government under Section 471 Criminal Procedure Code the case of the prisoner Mallesa who is detained in the District Lock-up Chitaldrug pending orders of Government.

In the Judgment, I have held that but for the incapacity found the act of the accused would constitute offence under section 302 Indian Penal Code.

I have the honor to be,

Sir,

Your most obedient servant,

SESSIONS JUDGE.

In the Court of Sessions, Shimoga Division.

Camp: Chitaldrug, Dated 26th June 1926.

Present: G. Satyaji Rao, Esq., B.A., B.L.,

Sessions Judge.

Chitaldroog Sessions Case No. 7 of 1925-1926.

Complainant.		Accused.
GOVERNMENT.	VS:	MALLESHAPPA.

Offence:- Murder under Section 302 I. P. C.

Opinion of the Assessors: Not guilty.

Finding of the Judge: Not guilty.

Sentence or order: The accused is acquitted.

-+++++++++++++++++++-

J U D G M E N T.

The Special First Class Magistrate, Chitaldrug, framed a charge for offence under Section 302 I. P. Code against the accused and committed him for trial in this court.

The Police placed the charge-sheet before the Magistrate on 6-3-1926 and the Magistrate framed the charge on 13-4-1926.

The trial in this court began on 24-6-26 and ended on 25-6-26.

The public Prosecutor who conducted the prosecution examined 13 witnesses.

The Standing Counsel for undefended murder cases appeared for the accused. He examined 2 witnesses. Two assessors sat to aid the court in the trial.

Lists of witnesses, Exhibits and Articles are separately filed.

2. The plea of the accused is that he does not remember what he did, to the old man and that his senses revived only after he came to Chitaldrug. In other-words, his plea is that his act comes under the general exception detailed in Section 84 of I. P. Code. Both the assessors were of the opinion that at the time of doing the act the accused was, by reason of unsoundness of mind, incapable of knowing the nature of the act.

3. The accused is a washerman living at Kanchal village in Hayadurga Taluk (British Territory) He is about 50 years of age. P.W.2 Lakshmakka is his wife. They have a son about 10 years of ago. The accused has his parents and 3 brothers (out of 5) alive. The parents live separately from the accused and each of his brothers lives separately. The other 2 brothers Chikkanna and Veerana died of lunacy. The former died 5 years ago and the latter 3 years ago. Both the defence witnesses and Lakshmakka (the wife of the accused as P.W.2) deposed that since the past 10 years the accused is having fits of insanity once in 2 or 3 years which fit lasts for 2 or 3 months, that the accused had the fits 4 or 5 times during which time the accused would be tied up by a chain, that the last fit commenced 5 or 6 months ago when the accused had been tied up and that 1 or 2 days before 21-2-1933 Lakshmakka stated that she would take her husband to Parameswara Mutt at Kanchenahalli(Molkalmuru Taluk) for Pradakshina(going round a deity) as she had heard that a new Swamy(P.W.6) had come to the Mutt. Both the defence witnesses are respectable residents of Kanekal village. D.W.1 Rama Reddi pays Rs.2000/- Kandayam. He stated that during one of such fits he lent a chain for tying up the accused. It would seem that the fit began mildly, take a violent form after some days and then gradually wear away. It was only at the serious stage when he used to pursue people that he was tied up. At other times he used to wander about streets, sing and dance, talk to himself and take or throw away food any where. D.W.2 Mahaboob Sab is the neighbour of the accused. He used to help P.W.2 and her people in tying up the accused. He was observing the course of the fits. On the

last occasion the fit came in 1 or 2 months before Lakshmakka began to tell him that she would take the accused to the Mutt. She said so on a Friday(Shandy day) and on the next day she said that she would take her husband on the following day. She knew from previous experience that at that time the stage of acuteness had passed and the fit was wearing away.

4. I may say at once that Lakshmakka has given a faithful account of what actually took place. With the best of intentions in the interests of her husband she left her village with her husband early on the morning of Sunday the 21st of February and reached the Mutt at noon-time. The Mutt is 18 miles from Kanekal. Although the accused was ~~wavering~~ hither and thither and not giving revelant answers he did not give any trouble on the way. The couple xxx sat under a tree in front of the Mutt probably to take some rest before entering the mutt. Lakshmakka sat at a distance of about 2 yards from the accused. Suddenly the accused got up and came to her in a threatening manner. Lakshmakka ran into the granary or the portion of the mutt used for storing grains being pursued by the accused. She bawled out for help as she was running and the deceased Murudappa who was an old man 60 years of age came between the couple just when Lakshmakka reclined against a wall. The accused took a gadari(an iron pestle used for pounding) and hit Murudappa with it on the back of his head. The head was broken. Blood came out profusely and Murudappa fell down face down-wards which broke some of his teeth and injured his lip. P.W.5 Hampayya was the poojari in the mutt and P.W.3 and P.W.4 were visitors to the mutt who had come with offerings to the diety in the mutt. These xxx three were seated at the temple or the left portion of the mutt. Exhibit P 5 is the sketch of the scene of occurrence drawn by the Sanitary Inspector who was examined as P.W.11. The 3 witnesses heard the galata. They ran to the right block and observed Murudappa down with head broken and blood issuing out profusely and the accused standing with the gadari(Article I) in his hand. Lakshmakka told them what had happened and informed them that the accused had one of his fits of insanity then. Two of the witnesses

held the accused and the third snatched the gadari from his hand. They tied him up to a pillar. P.W.6 who is the Swami in the mutt was aroused from sleep by the galata. He came to the place of occurrence and then ran to the village of Manchenahalli(one mile from the mutt) to bring the shanbhogue and the Patel. The - - shanbhogue and the patel came to the mutt and saw what had happened. The shanbhogue wrote the report marked Exhibit P2 which was signed by the patel and sent to the nearest police station at Santhe Bande. A duplicate report was also sent to the Taluk Police Office at Molkalmuru. P.W.9 is the police constable who was at Santhe Bande station. He went to the mutt at mid-night of the same day. He and the patel and others kept watch on the deceased and the accused until the arrival of the Police Inspector P.W. 13. The patel was examined as P.W. 7. As soon as he came to the mutt he attended on Murudappa and did what he and others could to revive ~~kkk~~ him. Murudappa lost consciousness immediately after receiving the blow and he did not revive. He was making some sound which could not be understood and he died at Sunset time the same evening. It is after he died that the patel sent the report. The Inspector and the Sub Assistant Surgeon of Molkalmuru came to the spot on the morning of the 23rd. The Inspector held Inquest on the body and at noon-time he handed over the body to the - - Doctor for post-mortum. The Doctor was examined as P.W. 1 and Exhibit P 1 is the certificate granted by him. It is counter--signed by the District Medical Officer. The clothes which were on the body of the deceased, the earth scraped from the spot where the deceased lay and the gadari were sent to the chemical ~~examinatiom~~ Examiner in Bangalore. Exhibit P 6 is the certificate granted by the chemical examiner. Mammalian blood was detected in the clothes and in the earth. (Articles II, III, V, XI and XII)

5. The accused had been kept tied up to the pillar until the arrival of the Inspector. The Inspector arrested the accused after the Inquest. He examined witnesses, awaited the post-mortem and the chemical examiner's certificates and then placed the charge-sheet before the Magistrate on 6-3-1926. The Doctor found

on disection that the bone at the pareito xxx occipital junction was crushed into several small pieces varying from the size of a small mustard seed to the size of a horse-gram occupying the area about ½" by ½". The skull was fractured in various directions. The Inspector found that the thick end of the gadari was smeared with blood.

6. The deceased Murudappa was 60 years of age. He was - - xxx unmarried. He was a native of Bommakkanahalli which is also the parental place of P.W.8 Gangamma who was related to the deceased. Murudappa used to go to the mutt now and then and used to cook there for some months at a time. The District Medical Officer of Chitaldrug, was examined as P.W.10. He is also the District Lock-up Officer. He stated that ever since the accused came to the Lock-up at Chitaldrug(6-3-1926) he has not shown any signs of lunacy. At the same time the Doctor said that from the present mental condition of the accused it was xxxxx absolutely impossible to say whether the accused could not have had insane fits at any previous time. That was the first time Lakshmakka went with her husband to the mutt. Neither Lakshmakka nor her husband had seen the deceased at any time before the occurrence. There was absolutely no motive for the accused to murder either his wife or the deceased. Immediately after the occurrence Lakshmakka stated to the 3 witnesses that her husband was subject to insane fits and her object in going to the mutt that day was to pray the deity to prevent such fits in future. The accused had been tied up to the pillar until the arrival of the Inspector on the morning of the 23rd. There is the statement of the accused xxx that he does not remember anything that took place until he came to the Lock-up at Chitaldrug. There is also the evidence of the 2 defence witnesses, and straight-forward deposition of Lakshmakka. A consideration of these circumstances brings me to the irresistible conclusion that the accused, at the time of committing the act, by reason of unsoundness of mind, was incapable of knowing the nature of the act, or that he was doing what was either wrong or contrary to law. In other-words his act comes under the general exception detailed in Section 84

Cod

My view is that when the violent stage had passed the woman took her husband to the mutt and sat to take rest under a tree. The exertion of walking a distance of 18 miles in the hot sun until noon-time and the strangeness of the surroundings brought on the fit of madness suddenly in the accused.

Under Section 84 I. P. Code the act of the accused is not an offence committed by him.

Agreeing with the assessors, I acquit him of the charge.

Under Section 470 Criminal Procedure Code I record the finding that the accused committed the act.

I direct the accused to be detained in the Lock-up and to abide by the orders to be passed by the Special First Grade Magistrate Chitaldrug under the Lunacy Regulation.

Articles I and XIII will be given to P.W.6 Parameswarappa. Articles II to X will be given to P.W.8 Gangamma. Articles XI and XII will be thrown away.

Pronounced in Open Court.

Sd/- G. Satyaji Rao.

26-6-1926.

"

Copy

Sessions Judge

Chitaldrug Sessions Case No. 7 of 1925-1926.

The following witnesses were examined for the prosecution:-

1. Mr. M.C. Nanjappa. 2. Lakshmakka. 3. Musilappa. 4. Kare Nagappa. 5. Hampayya. 6. Parameswarappa alias Obaleshappa. 7. Siddappa. 8. Gangamma. 9. Sheik Budan. 10. Mr. N.S. Nanjundaiah 11. N.D. Sarode. 12. Pala Naika. 13. Mr. Vasudevan.

The following exhibits were filed for the prosecution:-

P1. Post-mortem certificate.
P2. Patel's report.
P3. Requisition addressed to the District Medical Officer Chitaldrug from the Special 1st Class Magistrate Chitaldrug.

P4. Reply sent from the District Medical Officer Chitaldrug to the Special 1st Class Magistrate Chitaldrug.

P5. Sketch.
P6. Chemical Examiner's certificate.
P7. Statement of the accused Before the lower court.

The following articles were produced in the case:-

1. Iron pestle. 2. Panche. 3. Panche. 4. Lingada Vastra. 5. Panche. 6. Waist thread. 7. Waist thread. 8. Silver seal ring. 9. Brass ring. 10. Copper Thayathi. 11 & 12 Two small bags containing mud. 13. Gunny bag.

The following witnesses were examined for the defence:-

1. Rama Reddi.

2. Mahaboob Sab.

--++++++++++++++++++--

APP. F. VI. Gl.]

SUBJECT.....

.....

.....

Section Cts

File No. 8•26

Serial No. 2

No. 1474 Records

Diary No. of letter replied to:.....

To

The D.M. Chitaldrug

General and Revenue Secretariat

( )

the *192*

Sir,

I am directed to forward herewith the file of records in Chitaldrug Sessions Case no 7 of 25-26 together with a copy of the letter no 42(12) 23.7.26 received from the Sessions Judge Shimoga Dn requesting orders of Govt under section 491 Criminal Procedure Code re prisoner Mattesa who is detained in the District Lock up, Chitaldrug, and to request you to kindly ascertain and intimate whether his Relations would stand security for taking adequate care of him during his fits of insanity.

Date of issue 27/7/26

Signed by M Veeraraghavan

List of enclosures.....

Copied by.....

Examined by.....

in case heir delivered over to their care & custody

over Thereafter

WD 01265—GPB—31,000—24-12-25

1344 P 26

Tel. Address:—DISMAG.
Chitaldrug.

13695

In reply, please refer to
No. C.J. No. 64
Enclosures. on one file

OFFICE OF THE DISTRICT MAGISTRATE,
CHITALDRUG DISTRICT.

Dated Chitaldrug, 15th Septr: *1926*.

FROM

S. VENKATRANGAM, ESQ., B.A. B.L.,
District Magistrate,
Chitaldrug District.

C 8-26-3

GEN. & REV. SECTT. P 16. SEP. 1926 G.D.B. SECTION.

To D. B. Nagappa Esquire Bar-at-Law.,
Secretary to the Government of Mysore;
Local and Legislative Departments,
Bangalore.

Sir,

Adverting to your letter No.P.474/Cts.8-26-2 dated 28th July 1926 enquiring whether the relations of prisoner Mallesa who is retained in the District Lockup at Chitaldrug pending orders of Government under section 471 Cr.P.C. would stand security for taking adequate care of him during his fits of insanity in case he is delivered over to their care and custody, I have the honor to state that the father and three younger brothers of prisoner Mallesa have offered themselves to stand security for taking adequate care of him if he is delivered over to their care and custody. Their statement recorded by the Police Inspector Molakalmuru Taluk on 18th August 1926 at Kanekal and received in this office with District Police Superintendent's No.C.49/26-27 dated 24th August 1926 is herein enclosed for reference.

The file of records in Chitaldrug Sessions case No. 7 of 1925-26 received with your letter under advertence is herewith

12

G.R.S. VI G 34]

SUBJECT.....

.....

.....

Diary No. of letter replied to.....

General and Revenue Secretariat

( )

, *the* 192

Date of issue.... 28/9/26

Signed by.....

May this be

i Printed ?

ii treated as a standing order ?

iii published in the Gazette, English Part ?

iv translated ?

v placed at the disposal of the press ?

vi published in the Gazette, Kannada Part ?

Section C.J.

File No. 8.24

Serial No. 4

Proceedings of the Government of His Highness the Maharaja of Mysore

Read—

Letter no 42/12 dt 23.7.26 from the Sessions Judge, Shimoga Division, forwarding a copy of judgment in Chitaldrug Sessions case no. 7 of 1925-26 and requesting orders of Govt under section 471 Criminal Procedure code regarding one Mallesa accused of an offence under section 302 I.P.C. but acquitted Order Thereon—No. on the ground of insanity, at the time of the Commission of the offence and detained in the District Lockup at Chitaldrug

2. Correspondence ending with letter no C.J. 6.47 dt 15.9.26

28/9

from the D.M. Chiestaldony stating
that the father and three
younger brothers of the prisoner
Mallesa have offered themselves
to stand security for taking
adequate care of him if he is
delivered over to their care and
Custody.

order. In the circumstances
reported by the D.M.
Chietaldony, ~~that the father and~~ 3
~~younger brothers of the prisoner~~
Mallesa have offered themselves
to stand security for taking
adequate care of him if he
is ~~handed over to their custody~~
under sec 475 of the Code of Criminal Procedure
I am directed that the prisoner
be handed over to his father
and his 3 younger brothers after
taking security from them
~~as per order~~ contemplated in the section.

The handing over of the prisoner shall be
subject to the condition that he shall be produced before the
Distt. Medical Officer for inspection once in every six months.

Copied by

Examined by

Do
The D.J. and Sessions Judge, Chittoor with the records in Sens 7 of 25 referred.
c. D.M. Chietaldony with the enclosures of this letter.
a Revr. thereof sent under ack

WD 1883—GPB—1,000,00—21-12-21